IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
SECOND APPEAL NO.337 OF 2004

Mainuddin Suleman Kazi ...Appellant.

V/s.

Sou. Shashikala Dinkar Patil & Ors....Respondents.

Ms.Vaidehi, adv. h/for Mr.P.M.Pradhan, adv.,for the Appellant.

CORAM: A.V.MOHTA, J.
DATE : 18th November, 2005.

P.C.:

1. Both the Courts concurrently by appreciating the evidence led by the Parties and material on record, dismissed the suit filed by the Appellant/Plaintiff. Appellate Court also confirmed the same. Therefore, this Second Appeal. Both the Courts negatived the issue that the agreement dated 23rd September, 1963 was of personal nature and it does not create any right in favour of Defendant Nos.1 to 3 or 7 and the said agreement is null or void. The encroachment issue as alleged by the Plaintiff was also negatived. The issue goes in favour of the Defendant No.7 in respect of right of way and draining out of rain water. All these aspects, therefore, cannot said to be perversed or contrary to the records. The view taken by the Court needs no interference.

2. The Second Appeal, therefore, stands dismissed.

3. No order as to costs.

(Anoop V. Mohta,J.)